



Rep. Lawrence M. Walsh, Jr.

Filed: 5/1/2014

09800SB3309ham001

LRB098 17036 EFG 58912 a

1 AMENDMENT TO SENATE BILL 3309

2 AMENDMENT NO. _____. Amend Senate Bill 3309 on page 1, in
3 line 5, after "2-114,", by inserting "3-144.2, 3-148, 4-139,";
4 and

5 on page 1, in line 6, after "2-163,", by inserting "4-138.10,";
6 and

7 on page 2, below line 23, by inserting the following:

8 "(40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)
9 Sec. 3-144.2. Mistake in benefit.

10 (a) If the Fund mistakenly sets any benefit at an incorrect
11 amount, it shall recalculate the benefit as soon as may be
12 practicable after the mistake is discovered.

13 (b) If the benefit was mistakenly set too low, the Fund
14 shall make a lump sum payment to the recipient of an amount
15 equal to the difference between the benefits that should have

1 been paid and those actually paid, plus interest at the
2 prescribed rate from the date the unpaid amounts accrued to the
3 date of payment.

4 (c) If the benefit was mistakenly set too high, the Fund
5 may recover the amount overpaid from the recipient thereof,
6 including interest at the prescribed rate from the date of
7 overpayment to the date of recovery, either directly or by
8 deducting such amount from the remaining benefits payable to
9 the recipient. If the overpayment is recovered by deductions
10 from the remaining benefits payable to the recipient, the
11 monthly deduction shall not exceed 10% of the corrected monthly
12 benefit amount, unless otherwise agreed to by the recipient of
13 the benefit.

14 However, if (i) the amount of the benefit was mistakenly
15 set too high, and (ii) the error was undiscovered for 3 years
16 or longer, and (iii) the error was not the result of incorrect
17 information supplied by the affected participant or
18 beneficiary, then upon discovery of the mistake the benefit
19 shall be adjusted to the correct level, but the recipient of
20 the benefit need not repay to the Fund the excess amounts
21 received in error.

22 (d) In the event of any conflict between this Section and
23 the Administrative Review Law, including but not limited to any
24 period established under that Law having the effect of limiting
25 the time in which a mistake in benefit may be corrected, this
26 Section is intended to control.

1 ~~The amount of any overpayment, due to fraud,~~
2 ~~misrepresentation or error, of any pension or benefit granted~~
3 ~~under this Article may be deducted from future payments to the~~
4 ~~recipient of such pension or benefit.~~

5 (Source: P.A. 82-623.)

6 (40 ILCS 5/3-148) (from Ch. 108 1/2, par. 3-148)

7 Sec. 3-148. Administrative review. Except as provided in
8 Section 3-144.2, pertaining to the correction of mistakes in
9 benefits, the ~~The~~ provisions of the Administrative Review Law,
10 and all amendments and modifications thereof and the rules
11 adopted pursuant thereto, shall apply to and govern all
12 proceedings for the judicial review of final administrative
13 decisions of the retirement board provided for under this
14 Article. The term "administrative decision" is as defined in
15 Section 3-101 of the Code of Civil Procedure.

16 (Source: P.A. 82-783.)

17 (40 ILCS 5/4-138.10 new)

18 Sec. 4-138.10. Mistake in benefit.

19 (a) If the Fund mistakenly sets any benefit at an incorrect
20 amount, it shall recalculate the benefit as soon as may be
21 practicable after the mistake is discovered.

22 (b) If the benefit was mistakenly set too low, the Fund
23 shall make a lump sum payment to the recipient of an amount
24 equal to the difference between the benefits that should have

1 been paid and those actually paid, plus interest at the
2 prescribed rate from the date the unpaid amounts accrued to the
3 date of payment.

4 (c) If the benefit was mistakenly set too high, the Fund
5 may recover the amount overpaid from the recipient thereof,
6 including interest at the prescribed rate from the date of
7 overpayment to the date of recovery, either directly or by
8 deducting such amount from the remaining benefits payable to
9 the recipient. If the overpayment is recovered by deductions
10 from the remaining benefits payable to the recipient, the
11 monthly deduction shall not exceed 10% of the corrected monthly
12 benefit amount, unless otherwise agreed to by the recipient of
13 the benefit.

14 However, if (i) the amount of the benefit was mistakenly
15 set too high, and (ii) the error was undiscovered for 3 years
16 or longer, and (iii) the error was not the result of incorrect
17 information supplied by the affected participant or
18 beneficiary, then upon discovery of the mistake the benefit
19 shall be adjusted to the correct level, but the recipient of
20 the benefit need not repay to the Fund the excess amounts
21 received in error.

22 (d) In the event of any conflict between this Section and
23 the Administrative Review Law, including but not limited to any
24 period established under that Law having the effect of limiting
25 the time in which a mistake in benefit may be corrected, this
26 Section is intended to control.

1 (40 ILCS 5/4-139) (from Ch. 108 1/2, par. 4-139)

2 Sec. 4-139. Administrative review. Except as provided in
3 Section 4-138.10, pertaining to the correction of mistakes in
4 benefits, the ~~The~~ provisions of the Administrative Review Law,
5 and all amendments and modifications thereof and the rules
6 adopted pursuant thereto, shall apply to and govern all
7 proceedings for the judicial review of final administrative
8 decisions of the retirement board provided for under this
9 Article. The term "administrative decision" is as defined in
10 Section 3-101 of the Code of Civil Procedure.

11 (Source: P.A. 82-783.)".